

UNAPPROVED MINUTES

AUGUST 22, 2011

KITTERY TOWN COUNCIL

August 22, 2011

COUNCIL CHAMBERS

1. Call to Order

Chairperson Spiller called the meeting to order at 7:00 P.M.

2. Introductory

Chairperson Spiller read the introductory.

3. Pledge of Allegiance

Chairperson Spiller led those present in the Pledge of Allegiance.

4. Roll Call

Answering the roll were Chairperson Judith Spiller, Vice Chairperson George Dow, Councilors Gary Beers, Frank Dennett, Jeffrey Pelletier and Jeffrey Thomson.

5. Agenda Amendment and Adoption –

CHAIRPERSON SPILLER MOVED TO ADD ITEM G TO THE AGENDA TO ACCEPT THE RESIGNATION OF TOWN MANAGER JONATHAN CARTER EFFECTIVE 9/22/11, SECONDED BY COUNCILOR THOMSON.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

COUNCILOR BEERS MOVED TO ADOPT THE AMENDED AGENDA, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

6. ACCEPTANCE OF PREVIOUS MINUTES –.

Councilor Beers noted that the terms of the two people appointed to the BOA at the July 25th meeting were listed as ending in 2014. He continued this was an error on the agenda and the terms should end in 2013.

COUNCILOR BEERS MOVED TO CORRECT THE MINUTES OF JULY 25TH BY CHANGING THE YEAR 2014 TO 2013 IN LINES 26 AND 34, SECONDED BY COUNCILOR DOW.

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29 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION**
30 **PASSES 6/0.**

31 **COUNCILOR BEERS MOVED TO APPROVE THE AMENDED MINUTES OF**
32 **JULY 25TH, SECONDED BY COUNCILOR THOMSON.**

33 **A ROLL CALL VOTE WAS TAKEN WITH CHAIRPERSON SPILLER**
34 **ABSTAINED. MOTION PASSES 5/0/1.**

35 **COUNCILOR BEERS MOVED TO APPROVE THE AMENDED AUGUST 8TH**
36 **MINUTES, SECONDED BY COUNCILOR DOW, WITH ALL IN FAVOR.**

37 7. Interviews for the Board of Appeals and Planning Board –

38 Richard Balano came to the podium and stated that he had just been appointed to the
39 Board of Appeals. He continued that he had learned that the Planning Board is a lot busier and
40 needs help. Mr. Balano indicated he would like to contribute and help ensure that town
41 ordinances are upheld and conform with the comprehensive plan. Councilor Dennett stated that
42 he could not support Mr. Balano being on both the BOA and Planning Board. Mr. Balano
43 responded that he would ask that Council accept his resignation from the BOA if he was
44 appointed to the Planning Board. Councilor Beers noted that a member served on a board until
45 Council approved their resignation and that no action could be taken that evening. Chairperson
46 Spiller noted that Mr. Balano's resignation from the BOA and appointment to the Planning
47 Board would be on the next agenda.

48 8. PUBLIC HEARINGS –

49 a. (080211-1) The Kittery Town Council moves to hold a public hearing on proposed
50 amendments to Titles 15 and 16 of the Kittery Town Code.

51 Chairperson Spiller noted that notice of this public hearing was advertised in the
52 Portsmouth Herald on August 12th.

53 Town Planner Mylroie stated that the Planning Board had been working with ORC on
54 proposed amendments as part of the recodification process. He continued they were looking to
55 eliminate some of Title 15 and move it to Title 16 to make it more clear.

56 Chairperson Spiller then opened the public hearing.

57 Craig Wilson came to the podium and stated that he was a member of the BOA but would
58 be speaking on his own behalf that evening. He continued relative to Chapter 16.7, in the last
59 go-round, the BOA's ability to hear non-conformance matters was left out and as it is essentially
60 what the BOA does he thought Council should reconsider .

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Susan Emery came to the podium and indicated relative to political signs, Chapter 16.8.10.09, she thought that candidates should be able to communicate to voters through signs. She continued she did not understand the rationale for proposed changes and that she was opposed to all of the proposed changes.

Gay Lakin came to the podium and stated that he agreed with Ms. Emery. She indicated that she did not see how the town could restrict placing signs in public places and requested that Council strike the whole issue.

Chairperson Spiller then closed the public hearing.

COUNCILOR BEERS MOVED FOR DISCUSSION THAT THE TOWN OF KITTEERY HEREBY ORDAIN TITLE 15 IN ITS ENTIRETY, SECONDED BY COUNCILOR DOW.

Councilor Beers noted that Title 15 contained 3 passages which were more usefully incorporated in Title 16.

COUNCILOR BEERS MOVED TO POSTPONE ACTION ON THE PENDING MOTION UNTIL SEPTEMBER 12TH, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR THOMSON OPPOSED. MOTION PASSES 5/1.

COUNCILOR BEERS MOVED TO ORDAIN THE FOLLOWING ORDINANCES TO BE CODIFIED IN THE KITTEERY TOWN CODE, AMENDING AND REVISING TITLE 16, AS SHOWN IN SECTIONS 12 AND 13 ATTACHED, SECONDED BY COUNCILOR DOW FOR DISCUSSION.

Councilor Dennett stated that he opposed the motion because the proposed language was a mess. He continued he would consider putting it on the table but that it needed to be straightened out. Chairperson Spiller noted that she concurred with Councilor Dennett. Councilor Beers indicated he agreed and that it needed more work before action could be taken.

COUNCILOR BEERS MOVED TO POSTPONE THE ITEM INDEFINITELY, SECONDED BY COUNCILOR DENNETT.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

9. DISCUSSION –

Milton Hall came to the podium and indicated that he had looked at the application relative to the Kittery town pier and the applicant was listed as the Town and the KPA jointly.

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93 He continued he did not understand why the KPA would be listed as an applicant and pointed out
94 his other issues with the application.

95 John Carson came to the podium and noted that he agreed with most of what Mr. Hall
96 had said and that they were going to be making changes to the application.

97 Craig Wilson came to the podium and requested that Council give Chapter 16.7 priority.
98 Councilor Dennett responded that he could put some brief language together and give it to the
99 town clerk who could then give it to him to review.

100 Chairperson Spiller indicated to Mr. Hall and Mr. Carson that they would look at the
101 application and see what needed to be fixed.

102 10. UNFINISHED BUSINESS – None

103 11. NEW BUSINESS

104 a. (080211-2) The Kittery Town Council moves to schedule a public hearing on an
105 ordinance amendment to Chapter 4.4 of the Town Code to establish a Board of Directors for the
106 Kittery Community Center.

107 **COUNCILOR BEERS MOVED TO SCHEDULE A PUBLIC HEARING ON AN**
108 **ORDINANCE AMENDMENT TO CHAPTER 4.4 OF THE TOWN CODE TO**
109 **ESTABLISH A BOARD OF DIRECTORS FOR THE KITTERY COMMUNITY**
110 **CENTER FOR SEPTEMBER 12TH AND TO REFER THE RECOMMENDED**
111 **LANGUAGE TO ORC FOR REVIEW, SECONDED BY COUNCILOR DOW.**

112 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
113 **6/0.**

114 b. (080211-3) The Kittery Town Council moves approve the disbursement warrants.

115 Chairperson Spiller read the disbursement warrants including Warrant No. C081611 for
116 the Mitchell/Shapleigh construction in the amount of \$10,250.00, Warrant No. T12-08 for the
117 School Accounts Payable in the amount of \$105,260.41, Warrant No. S081611 for the School
118 Accounts Payable in the amount of \$30,970.00, Warrant No. SW12-07 for the Town Sewer
119 Payables in the amount of \$17,472.64 and Warrant No. T12-07 for the Town Accounts Payable
120 in the amount of \$95,145.24.

121 **COUNCILOR THOMSON MOVED TO APPROVE THE DISBURSEMENT**
122 **WARRANTS, SECONDED BY COUNCILOR DOW.**

123 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
124 **6/0.**

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c. (080211-4) The Kittery Town Council moves to sign a Memorandum of Understanding between the Town of Kittery and the Port Authority for maintenance, repair and improvement of municipal-owned wharves, docks, piers and landings.

COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL SIGN A MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF KITTERY AND THE PORT AUTHORITY DATED JULY 3, 2011, SECONDED BY COUNCILOR DOW.

Councilor Dennett indicated that he had two draft versions of the MOU dated 6/27 and 7/3 and asked which was the correct version. Chairman Carson responded that the signed copy was the last draft that he had received. Councilor Beers stated that the first draft was completed on 6/27 and was what went to the KPA and the 7/3 had not been transmitted to the KPA. Councilor Dow indicated that he was concerned that Council had not seen the 7/3 draft. Councilor Beers noted that there were no substantive issues.

A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DOW OPPOSED. MOTION PASSES 5/1.

d. (080211-5) The Kittery Town Council moves to accept the resignation of John Tansey from the Community Center Building Committee.

COUNCILOR THOMSON MOVED TO ACCEPT THE RESIGNATION OF JOHN TANSEY FROM THE COMMUNITY CENTER BUILDING COMMITTEE, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

e. (080211-6) The Kittery Town Council moves to appoint a Council liaison to the Port Authority.

CHAIRPERSON SPILLER MOVED TO SUSPEND COUNCIL RULES AND TO APPOINT COUNCILOR PELLETIER AS A COUNCIL LIAISON TO THE PORT AUTHORITY, SECONDED BY COUNCILOR PELLETIER.

Chairperson Spiller stated she thought they needed to appoint a councilor to improve communication between Council and the KPA.

A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR THOMSON, COUNCILOR DENNETT AND COUNCILOR BEERS OPPOSED. MOTION DOES NOT CARRY 3/3.

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f. (080211-7) The Kittery Town Council moves to schedule a public hearing on the Cable Franchise Agreement Renewal

COUNCILOR BEERS MOVED TO SCHEDULE A PUBLIC HEARING ON THE CABLE FRANCHISE AGREEMENT RENEWAL FOR SEPTEMBER 12, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

g. The Kittery Town Council moves to accept, with regret, the resignation of Town Manager Jonathan Carter effective 9/22/11.

COUNCILOR DOW MOVED TO ACCEPT, WITH REGRET, THE RESIGNATION OF TOWN MANAGER JONATHAN CARTER EFFECTIVE 9/22/11, SECONDED BY COUNCILOR THOMSON.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

12. COUNCILOR ISSUES OR COMMENT –

Councilor Thomson indicated in his review of the school warrants he had come across a \$9000 legal bill which was to be split by the town and school. He continued he wanted to make sure the proper entity was obligating the town for legal fees, that people were aware that these expenses were happening and to make sure town funds were not being obligated by people who do not have the authority to do so. Councilor Dow stated his concern was wanting to make sure certain issues were not causing the town to incur unnecessary expenses. Councilor Beers stated that in this instance he thought the school should have paid more of the bill as it was entirely a school department consideration. Chairperson Spiller indicated that she thought that Councilor Beers's contributions were helpful but thought some of his actions were the town manager's responsibility. Councilor Dennett noted there was a legal problem with the contract at issue. Councilor Thomson indicated he thought the town manager and superintendent should be made aware of those types of problems and then the Council chair could be informed and could stop the process. Councilor Beers indicated that he and Councilor Dennett, acting as ORC, had met on all of the questions and pointed out the flaws. Councilor Dennett stated if Council did not want ORC, they should vote to disband it. Councilor Dow responded that Council appreciated all of the work that ORC does.

Councilor Dennett stated that after 6 years, Kittery had won on the hold harmless agreement issue with ME DOT.

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190 Councilor Dow asked if there were any regulations relative to parking at the Traip ramp.
191 Chairperson Spiller responded that the assistant harbormaster trolled the parking lot collecting
192 launch fees and that there was also a collection box for fees. Chairman Carson noted there
193 needed to be a sticker on a trailer or car. He continued if there was not a sticker, the person was
194 informed of how to get a sticker and also how to pay the launch fees.

195 Chairperson Spiller asked if the CEO could give an update on the Wilson property on 236
196 in the near future.

197 13. COMMITTEE AND OTHER REPORTS

198 a. Communications from the Chairperson –

199 Chairperson Spiller stated that Jack Copley's memorial service was that Saturday and
200 thanked Mr. Copley for his contributions to the town and gave her condolences to his family.

201 Chairperson Spiller indicated the Fuel & More River Dance was scheduled for September
202 10th from 7-11 at the Lobster in the Rough.

203 b. Town Manager's Report

204 Town Clerk Place noted there was going to be an open house for Town Manager Carter
205 on September 22nd and it was going to be open for staff and the public.

206 c. Committee Reports

207 Chairperson Spiller stated relative to the Wood Island Committee, they had received a
208 letter from the National Parks Service with their recommendations. She continued this issue
209 would be on the agenda at the next Council meeting.

210 15. ADJOURNMENT

211 COUNCILOR DOW MOVED TO ADJOURN, SECONDED BY COUNCILOR
212 THOMSON WITH ALL IN FAVOR. MEETING ADJOURNED AT 8:56 P.M.

213